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On the trail of mining's corporate nomads

Hardrock mining still has deep pockets and an ironclad law on its side, but this once unassailable institution is bumping up against increasing local opposition. The result: Federal land managers are scrambling for a new approach.

By Heather Abel

PICURIS PUEBLO, N.M. — Gerald Nailor pulls up in his huge pickup truck looking very cool. He removes his Janis Joplin shades and motions for me to climb in. It is an unseasonably warm March day and the former tribal governor of the Picuris Pueblo is taking us to the top of Copper Hill, about an hour south of Taos and an hour north of Santa Fe. It's where a Canadian copper-mining company has staked 223 claims.

As we careen up the rutted road, he points out boundaries: Now we are on Picuris Pueblo land, now it's a former Hispanic land grant; here the Bureau of Land Management is in charge, there the Forest Service, and now back to the Picuris.

Within this triangular island formed by the Rio Embudo and the Rio Grande, land is hotly contested but largely undeveloped. The Picuris Pueblo and small Hispanic towns of Pilar, Dixon and Embudo hug the rivers, where the ground is relatively flat and can be irrigated, leaving wild much of the Picuris Mountains, an east-west spur of the Sangre de Cristos.

This is one reason Nailor returned home, for the solitude and quiet he knew as a boy hunting elk in these woods. But he came back, too, because he was ready to sober up. He'd lived on skid rows, ridden the rails, worked as a cook and a barber, and gotten drunk a lot, he says.

Once back, Nailor was elected governor of the 339-member tribe. He helped write and pass a resolution against Summo USA, the company seeking to open a mine on these 4,000 acres where the Picuris once fought off the Spanish.

Nailor sees the mining company executives as rootless wanderers, much like his former self. "They are very, very greedy, man. If mining is done in the right way, it is a good livelihood. This way, the money all goes to people who don't have grass roots. Nomadic people, wandering businessmen, don't have a place. They go from country to country. Greed is a sickness like alcoholism."

We finally lurch to the summit of Copper Hill, a flat, muddy point surrounded by snow-covered peaks. Nailor crouches among the newly green sage to point out coyote and elk tracks in the mud. The ground is littered with the remains of an old mining operation — brilliant azure, turquoise and green rocks. Nearby is an old boxcar, once used to carry ore from underground tunnels, and a trailer recently spray-painted in dripping gold: "Hayduke lives. F - - k Summo."

Although I have to explain that Hayduke is a character in Ed Abbey's *The Monkey Wrench Gang*, Nailor loves the graffiti, the drama of it.

"Hopefully we can do it in a peaceful manner with Summo," he says, posing for a picture next to the graffiti. "Northern New Mexico is a rough country. We are honest people, but when something violates our area, there is a protective thing we need to do. People don't want to do a monkey-wrench thing, which I'm sure it would be. We're all OK now. We know how hard life is in the mountains. We eat chili and beans together. It is hard, but good."

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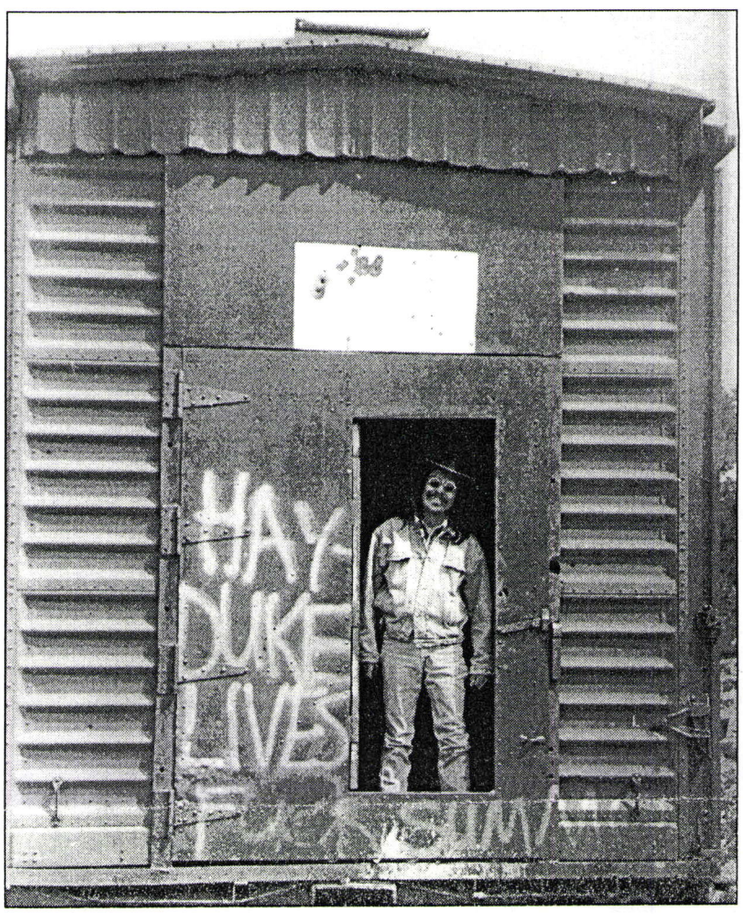
1872 and all that

Hardrock mining shaped the Old West and is shaping the New West. The region's hottest towns — Aspen, Park City, Moab — are busted mining towns. But mining *is also contemporary. Far* from being quaint and old-fashioned, modern mining stamps a huge footprint into the land — vast open pits, the use of acid and cyanide solutions, and the disturbance of tons of earth to extract ounces of metal. As a result, many small communities have concluded that they cannot coexist with a mine, and attempts to open mines are often met with strong local reactions. This is the first in a series of *HCN* articles on these clashes and the implications they have for the 1872 Mining Law, which gives miners virtually free access to public lands. The work is supported by a grant from the Brainerd Foundation, in Seattle, Wash.



"PEOPLE DON'T WANT TO DO A MONKEY-WRENCH THING": Gerald Nailor poses for a picture with graffiti on Copper Hill (Heather Abel)

A divided community unites against a mine ...

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Heather Abei

"Northern New Mexico is a rough country. We are honest people, but when something violates our area, there is a protective thing we need to do."

— Gerald Nailor, former Picuris Pueblo governor

Hard is an understatement. This is the poorest part of New Mexico, with the fewest jobs. In Dixon, Pilar and Embudo — the towns, each with fewer than 1,000 people, that surround Copper Hill — the yards of the mobile homes are crammed with car parts, machines, junk, anything to help scratch out a living.

But while unemployment and poverty are high in northern New Mexico, ethnic tensions are higher. The Chicanos, Indians and back-to-the-land Anglos have battled over boundaries and culture. They have hung each other in effigy, stormed out of meetings, called each other "racist" and "wise use."

Now the tensions have been submerged in the face of a greater enemy. While Copper Hill is in Taos County, the towns surrounding the potential mine site are in Rio Arriba County. Anger over Summo's copper mine runs through this part of Rio Arriba County like a flash flood through a dry arroyo. There is a momentum against this mine, a consensus against it, and a rallying against it, the way an urban neighborhood roots for a basketball team, as if the mere fact of having something to fight puts everyone in a better mood.

In mid-1996, when they heard that Summo had started exploratory drilling on Copper Hill, members of the newly united community began meeting. Five months ago, Summo's chief executive officer and president, Greg Hahn, spoke with them at the Picuris Pueblo.

They surprised Hahn with their fervor against the mine and their dismissal of the jobs it would bring. Tonight, March 21, is to be the second meeting with Summo. This time the meeting will be in Taos, an hour north.

Where's Summo?

That night, in a chichi art gallery, facing a wall of painted horses running into salmon-colored sunsets, I watch people shuffle through the door. Except for a few moneyed Taos residents, this does not resemble a gallery-opening crowd. Picuris Pueblo Indians file into the back row, hugging each other. A few Chicanos discuss the unusual warm weather and what it means for their crops. Late-arriving hippies squat behind us on the floor, as if at a potluck.

The room is packed and hushed as a 19-year-old tribal leader shyly mumbles his speech — "we are with the land" — and a Chicano orchardist tells us that jobs from the mine would sicken the impoverished valley. Then it is Summo's turn to speak. We wait in our stiff folding chairs, but the mining company fails to show.

So the crowd turns on the Bureau of Land Management representative: Does Summo plan to cut a road through their town? What would happen during a drought like last year? Does the BLM know this land is sacred?

Despite the aggressive grilling, Mike Ford, the BLM's Albuquerque district manager, smiles amiably, as if unsure what the fuss is about. He makes a single vague, though startling, statement and then repeats it: "We are operating under the assumption that there is not going to be a mine."

He quickly adds, "We are not opposed to mining. We support mining. But mining is not the highest and best use of the area."

In place of the celebration I expect, the audience continues to pepper Ford with questions, which he fends off by repeating the same statement. I don't understand why the audience isn't pleased. I follow Ford out of the gallery after the meeting, hoping to learn more. All he will say is: "I am engaged in personal and private negotiations."

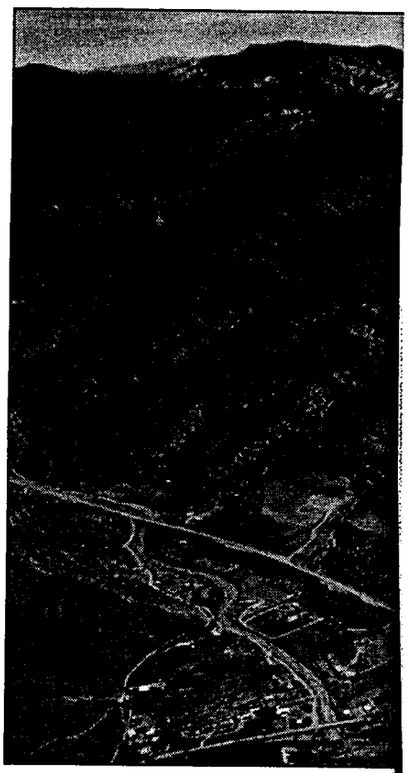
I don't have any better luck with Summo over the next few days. Bob Prescott, Summo's head engineer, sends me to CEO Hahn, who had made a name for himself by being open and accessible. No longer. He apparently has a new game plan, and will say only that Summo has not yet applied for permits to mine Copper Hill and I can ask my questions when it does. So I ask him why he didn't show at the Taos meeting.

"We're not interested in confrontation," he says.

ONE ANGRY WOMAN: Fabiola Calkins of Abiquiu speaks against a proposed copper mine near Picuris Pueblo — and near Embudo, where she was born and raised (Laurent Guerin)

A new spirit of resistance

Until recently, a mining company and the federal land management agency handling a mine's permitting could afford to blow off a community and the media. The 1872 Mining Law gives mining companies an almost ironclad right to ore bodies and to the public lands they need to get at the ore. Mines can be delayed, but if the company can afford to keep pushing the project through the Forest Service and Bureau of Land Management bureaucracies, a mine can't be stopped. Usually the company doesn't have to push very hard; the agencies are almost always eager to permit a mine.



MINE THIS MOUNTAIN? Copper Hill rises behind t

But this almost automatic right to mine has begun to be challenged. Although proposed mines still get full backing from the agencies, and although most mines still get constructed, there are examples around the West of opposition bearing fruit.

Last year, for example, President Clinton responded to public outcry by promising a mining company $65 million if it would abandon its New World Mine proposal outside Yellowstone National Park. In north-central Washington, the Crown Jewel Mine, which the company and the Forest Service expected to have in operation three or four years ago, is still mired in procedural matters and under fierce, informed and steady attack from local activists and from a nearby Indian reservation with claims to the land the mine would occupy.

These are not complete victories for anti-mining forces. One mine was bought off; one is being delayed. But even that modicum of success is relatively new. And these are not isolated examples. Everywhere in the West, both existing and proposed hardrock mines are being fought, and the fight almost always comes from the local communities rather than from distant environmentalists.

One reason for this change is that stories of disasters at heap-leach mines have become familiar. While almost everyone has heard about the Summitville cyanide spill in Colorado (*HCN*, 1/25/93), many communities have examples closer to home. The towns near Copper Hill have watched what happened to Questa, approximately 75 miles to the north, after 25 years' experience with Molycorp's molybdenum mine: More and more people have abandoned their farms, and the river running through the town has been deadened by acid mine drainage.

Because of the dangers posed by heap-leach mining, and because today's technology involves the movement of enormous amounts of earth, rather than tunneling, many communities feel that they can't coexist with a mine, and therefore must fight any proposal.

The second reason for the change is the

village of Pilar and the Rio Grande (Ernie Atencio)

Mineral Policy Center — the first environmental group to specialize in mining. MPC was formed nine years ago to reform the 1872 Mining Law. After several unsuccessful runs at changing the law through the Congress, the organization has dug in for the long haul, which in this case means working with local communities that want to question, modify or oppose existing or proposed mines. Although MPC is based in Washington, D.C., it has two field workers — one in the Southwest and one in the Northern Rockies — whose job it is to help communities that ask for help.

I came to New Mexico to see how a mining company starts a mine in this new environment. I deliberately chose a mine that hadn't attracted much attention and wasn't likely to. I wasn't looking for a Yellowstone National Park; I sought an out-of-the-way place where the 1872 Mining Law would presumably operate in the old way — smoothly and powerfully. I expected a quick trip, and a quick story about the permitting of a copper mine.

But then I ran into Ford's puzzling statement and Summo's silence.

Bound by a common threat

Baffled, I call Aimee Boulanger, 28, the Mineral Policy Center's circuit rider for the Southwest, based in Durango, Colo.

She starts by telling me about Summo, a mining company that has never run a mine, but that has been exploring in New Mexico for three to four years.

Besides Copper Hill, Boulanger says, Summo has staked claims in Lisbon Valley, Utah, and is exploring other land in Colorado. Both Copper Hill and Lisbon Valley were mined earlier this century. Back then, miners tunneled into the earth to follow ore that had to contain 2 to 3 percent copper to be economical. When the rich ore played out, the two areas were abandoned.

Today technologies have changed. Miners no longer go underground in pursuit of rich veins of ore. Instead, they dig huge pits. Ore removed from the pits is piled up, and sulfuric acid is dripped onto the pile. The acid leaches copper from ore, and then the copper is removed from the liquid. The process is efficient, allowing companies to mine ore bodies that contain as little as seven-tenths of 1 percent copper.

Then we talk about my confusion. Boulanger says that mining companies never walk away from ore bodies. If Ford's statement at the meeting means that the BLM has convinced Summo to give up its claims in New Mexico, she says, it is because the BLM has given Summo something in return.

Boulanger is the ultimate networker. She tracks every mining operation in her Southwest territory, and she knows about most of the operations elsewhere in the West. It is her bet, she tells me, that Summo's mine proposals in southern Utah and in northern New Mexico are somehow bound together.

The company is low on capital, she says. If Summo is considering giving up its claims in New Mexico, it will concentrate on permitting a mine in southern Utah. She urges me to head to Utah and check out Summo's proposed mine in Lisbon Valley.

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Blasting from the past: the 1872 Mining Law

1872 MINING LAW Enacted to lure settlers westward with the promise of access to the nation's minerals, this law grants hardrock (not coal, gravel, or oil and gas) miners free and open access to all public lands not expressly withdrawn from mining, and allows these miners to search for minerals without a permit. Miners are allowed to recover minerals without paying royalties to the federal government.

PATENTING If miners can prove they have a valuable ore discovery, they can patent (or buy) the surface land for as little as $2.50 an acre. This frees the mining company from government oversight. However, Congress has imposed a moratorium on patenting for the past three years.

NEPA AND RECLAMATION The mining law includes no requirement for environmental reclamation or bonding. Since 1971, however, miners have been subject to the National Environmental Policy Act, which requires land-management agencies to follow certain procedural steps, including preparation of an environmental impact statement, before permitting a mine on federal land or issuing a patent. As a result of the give-and-take of the EIS process, the mining company is generally required to promise to reclaim the mine site.

BONDING Starting in 1981, the Bureau of Land Management Agency has required companies that mine more than five acres to post a bond that would be used to reclaim the surface area in case the company fails financially. In February, this was expanded to include all hardrock mines.

— H.A.

A fruit-grower opposes mining — and tourism

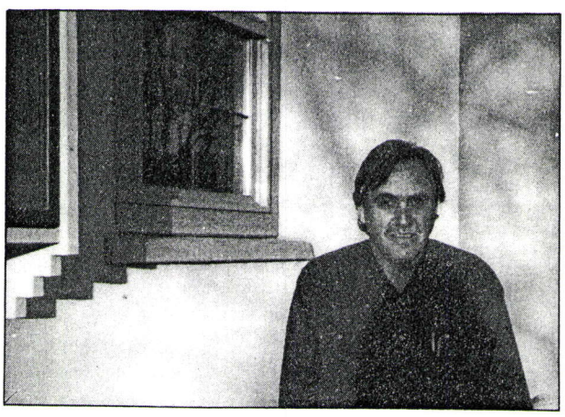
TAOS, N.M. — Over the din of a Taos sports bar where tourists are watching the NBA playoffs and drinking Coronas, orchardist Estevan Arellano is trying to explain the idea of *querencia*. It means, loosely, a love of home, an anchor to the ground.

It is this *querencia* that makes him fight to preserve the subsistence farming culture of Embudo, Dixon and Pilar. Arellano, who directs the Oñate Cultural Center, thinks Summo's copper mine would destroy it. To demonstrate, he draws maps on drink napkins to show how this area looked when it was governed by land grants given to the Hispanic people.

Bleeding into the napkin is a sketch of a prototype village. It could be present-day Embudo where he lives, or Taos many years ago. A river runs across the top. Below, the most fertile land is owned by community members, and irrigated by the communally run *acequias*, or ditches. Below that, in the less fertile ground, are the commons with houses and stores. Unlike public lands, these commons were governed by the local community, not Washington, D.C.

As the common lands were gradually incorporated into the public lands managed by the Bureau of Land Management and the Forest Service, villagers moved mobile homes onto the fertile croplands, sitting too close to the river when the floods come.

"The mine would never happen under the land grant. It would be up to the local people to make a decision. Local people are not in favor of that type of mining.



FIGHTING FOR *QUERENCIA*: Esteven Arellano wants to save the farming culture of his home (Heather Abel)

"Now they have a small garden, couple of cows, chickens, trees. With a mine, everyone abandons land. Then they say, 'I can buy chilies, corn, apples, peaches in the store. I'm not going to bother planting anything.' They are missing the whole idea. It is not about $1,000. It is about preserving our land, our lifestyle. It is very healthy. We don't have to go to the gym. There is fresh air, sun, vegetables. People here have been organic forever. The hippies think they discovered it.

"Sixty percent of the young people leave (Rio Arriba County). There are no jobs. We know that jobs from the mine could provide economic incentive for people to stay, but it is not worth the damage to the area. Very few people would benefit."

In Rio Arriba County, the fastest-growing industry is tourism, promoted by recent Anglo immigrants. The stretch of the Rio Grande from Pilar to Embudo attracts 40,000 rafters every summer, and bed and breakfasts and cafés have opened to service them. But Arellano also wants to cut back rafting.

"Nobody local makes money from rafting. They go into our orchards and get food, mess up the river, leave empty cans. ... Local people don't want to end up a ghost town, a tourist attraction, a living museum, so that tourists can stop by and say, 'this used to be a historic *acequia*; now it is dry.'

"Let's establish comanagement with the Forest Service and BLM. They're not doing a good job of management. When local people throw trash in the arroyos, they are doing civil disobedience. If people knew the land also belonged to them, they wouldn't do it. We are never in favor of returning common lands to private ownership. We only want to protect lands from the big contractors from out of state."

— H.A.

Utah greets a proposed

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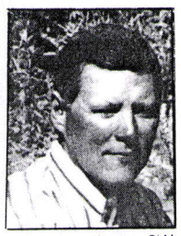
Utah's forgotten mine

Two weeks later, I am driving toward the red canyonlands of Moab, Utah. It is early April and the BLM has just approved Summo's plan to mine Lisbon Valley, located not far from Moab. I know a few things about Moab and surrounding Grand County. The main thing I know is that the area has had a long line of lovers, starting with writer Ed Abbey, who have fought zealously to protect it.

So I am unprepared for what I find. The town is silent. It is not just that this is off-season, and the T-shirt shops are closed. I can't find anyone who knows anything about the soon-to-be copper mine in nearby San Juan County.



Courtesy BLM

"If we are going to have mining on public land, Lisbon Valley is as good as it gets."

— Mike Ford, Bureau of Land Management

The outspoken Grand County bimonthly, *The Canyon Country Zephyr*, doesn't mention it. The public radio station has hardly covered it. The Southern Utah Wilderness Alliance, the wildly successful regional group dedicated to preserving 5.7 million acres of Utah wilderness, ignored the mine.

"There are other battles we need to fight. This did not make the cut," says SUWA's Kevin Walker from the group's newly opened Moab office. "I'm embarrassed to say, I've lost touch with the issue. It hasn't really caused a lot of stir."

Former Grand County Commissioner Bill Hedden says what I'm seeing is burnout. "People are worn out after the (Grand Staircase-Escalante National) Monument," he says.

But when I head south, to San Juan County, everyone seems to know about the mine.

"We'll do anything we can to make this mine happen," says San Juan County Commissioner Ty Lewis, a third-generation Mormon farmer. "We're anxious to see this happen."

From his cluttered office in the county courthouse in Monticello, Lewis tries to convince me that nothing could be better for his county than a copper mine with a 10-year life expectancy that brings 143 jobs during peak production. Utah's San Juan County is the state's poorest, with the highest unemployment. Only 15 percent of the county is private land and most of this land is too arid for agriculture. Only Monticello and Blanding are surrounded by irrigated fields, Lewis tells me; his six kids were forced to abandon farming.

In terms of landscape, San Juan County is blessed. It contains Lake Powell, some of the Navajo Reservation, and most of Canyonlands National Park. Nevertheless, this is not a county that courts tourist dollars.

"The last thing we want to look like is Moab," says Lewis.

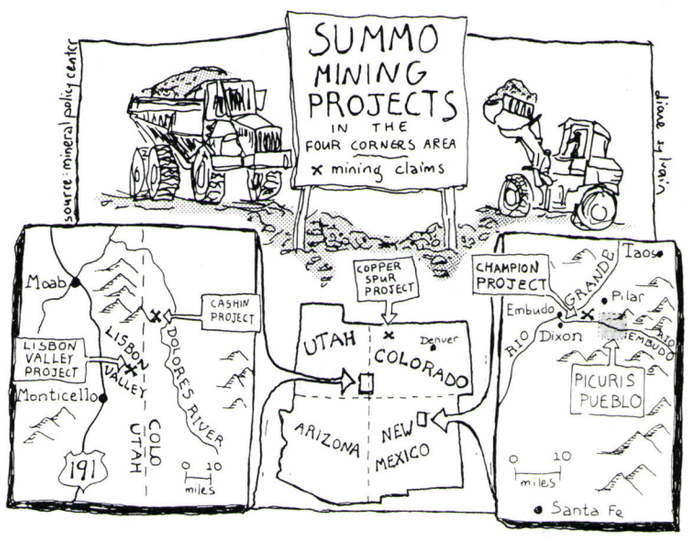
Not a problem, I think. Driving the 56 miles from Moab to Monticello felt like switching from a technicolor movie to black-and-white. Every sign in Moab beckons to the tourist; Monticello ignores newcomers.

Commissioner Lewis' gripe with tourism, he continues, is that it uses too much water, provides menial jobs and could wither with any downswing in the economy. I point out that Summo's mine is also a water hog — it will use 1,000 gallons of water a minute — and that its life expectancy is even less than that of a poorly built motel.

Lewis spells it out: The real problem with tourism is that it would destroy Monticello's way of life, which is based on cowboys and irrigated agriculture and mining booms and busts. Monticello learned to grow and shrink during its uranium-mining days. The mine, says Lewis, would blend right in.

As good as it gets

After talking to Lewis and several other mine boosters, I drive toward the 229 unpatented mining claims Summo plans to mine on just over 1,000 acres in Lisbon Valley, halfway between Moab and Monticello. To the north are the La Sal Mountains, to the west, Canyonlands National Park. The early spring brings some green to the rust-colored horizon, but what I can see is unmajestic — low buttes and shallow canyons. This landscape might look wild in Kansas. In southern Utah, not far from Canyonlands and Arches, it looks drab.



At first glance, this seems like a good place for a hardrock mine. It isn't anyone's scenic area. No river runs through it. Unlike Copper Hill, this is not a sacred site. No one even seems to feel much affection for the spot. Eighty-five of these acres already are covered with mining rubble. A mine will bring high-paying jobs to an impoverished region. Why fault SUWA for fighting other battles?

"If we are going to have mining on public land, Lisbon Valley is as good as it gets," Mike Ford told me before I came. Stepping over corroding machinery, I see what he means.

But later that day, in the BLM's Moab office, Associate District Manager Brad Palmer shows me Summo's mining plan. It doesn't require a long-term bond for water quality reclamation. And the water-quality work is pitiful. The BLM permit would allow Summo to mine for five years before it attempts to determine whether the aquifer that runs under Lisbon Valley is in danger of acid mine drainage. One of the biggest problems with hardrock mining is that the disturbed earth can cause acid mine drainage. Some mines that have been closed for decades are still discharging highly acidic water into the West's streams and rivers. Cleaning up such messes is almost impossible.

Palmer says it was a compromise. "There is probably not too much acid-generating material," he says. "If at the end of five years there is a problem, the project would stop."

I ask Palmer who exactly is going to shut down a mine and put 143 miners out of work. "Chances are, no one," he admits. "But we could get bond money."

Bit by bit over the next week, this "ideal" mine site begins to look less ideal. Bill Moran, who recently quit as head geologist for Woodward-Clyde, the company that wrote Summo's environmental impact statement, says Summo didn't spend enough money to fully analyze the geology. As a result, he thinks Summo's groundwater tests don't tell much about the aquifer's water quality.

The BLM agrees that the company doesn't know if pure or polluted water now flows under Lisbon Valley. It also doesn't have a good handle on how mining might affect the region's water. The three open pits might release heavy metals into the underlying Navajo Aquifer. That aquifer, which is on a fault line under the mine site, may be fractured and go nowhere. Or it might feed those heavy metals into the Dolores River.

"This may or may not be a problem," says Palmer.

Utah's state deputy BLM Director in Salt Lake City, Robert Lopez, had been concerned. On March 6, he wrote a letter to Moab district director Kate Kitchell saying that without this baseline data, Summo must post a long-term reclamation bond for groundwater clean up.

Lopez's suggestion was ignored. On March 26, the Utah state BLM gave Summo permission to mine in Lisbon Valley. Since the company already has its state water permits, it was ready to dig. But before work could begin, the Boulder office of the National Wildlife Federation and the Western Mining Action Project appealed the BLM's issuance of a permit to Summo on behalf of the Mineral Policy Center and two Moab residents (see story on page 11). The appeal criticizes the BLM for "not looking before it leaps" — for approving a mine without a long-term groundwater reclamation bond and without adequate understanding of the groundwater.

A quiet month

The May 2 appeal worries Summo. The Interior Board of Land Appeals has 45 days to make a decision, but Greg Hahn asks the board to rule as quickly as possible, before Summo's financial backers back out. "This ... would make it extremely difficult for Summo to recover," says Hahn. "Thus the entire future and viability of the company rides on an expeditious decision."

Summo doesn't get its wish. In fact, in mid-June the board grants a stay of execution. The company cannot construct open pits until the board rules on the appeal.

Meanwhile, life goes on. Dixon farmers plant their corn seeds. River rafters escort their first clients down the Rio Grande from Pilar to Embudo. And I start to write an article about two impoverished areas facing similar mines.

The story might have gone like this: When it comes to protecting the landscape, southern Utah's activists and national supporters are so organized that they dragged President Bill Clinton to the rim of the Grand Canyon in October 1996 to announce a new national monument. By comparison, northern New Mexico is made up of warring ethnic and political entities which clearly could never cooperate. So when Summo staked mining claims in both areas, the New Mexico mine should have been permitted and the Utah mine should have died under fierce, withering fire.

Instead, Summo whizzed through the

mine with silence ...

NOT A PRETTY SITE: Much of the future site of the Lisbon Valley mine is littered with debris from past mines (Courtesy Summo USA)

permitting process in southern Utah and decided to abandon its New Mexico claims. Why?

Patenting is the secret ingredient

On May 15, a New Mexican activist leaks me a fax that sheds some light on the story. The memo from Mike Ford to the acting BLM director in Washington, D.C., reveals that Ford has had a busy winter and spring. Back in December, he relates in his memo, he asked Summo what would induce it to relinquish its claims on Copper Hill.

Summo's Karen Melfi replied that the company would forfeit its 223 claims in New Mexico if it got title to its 229 unpatented claims in Lisbon Valley. Summo also asked to be compensated up to $400,000 for the costs of holding, acquiring and exploring its Copper Hill claims. Ford writes in the memo that if Summo abandoned its New Mexico claims, he would then use his administrative discretion to permanently withdraw Copper Hill from mining.

It sounds less like a deal than a recognition of reality. In New Mexico, Summo faces a long fight — one it may not have the pockets for. In Utah, it is a shoo-in. Ford's deal gives everyone what they want: the New Mexico communities defeat their mine; San Juan County, Utah, gets its mine; and Summo gets $400,000 and patented mining claims. The company could mine under a permit from the BLM, but patenting gives it freedom from BLM oversight.

But on closer examination, the proposal reaches far beyond the two mine sites. Interior Secretary Bruce Babbitt isn't fond of the 1872 Mining Law, but he is especially unhappy with the provision that allows mining companies to buy, or patent, public land for as little as $2.50 an acre. Babbitt delights in posing for photos holding checks that represent the immense value of ore bodies Canadian companies patent for a few thousand dollars. Babbitt and his photos have helped convince Congress to keep a moratorium on patents, thus far.

The proposed swap Ford has brokered is possible only if both Interior Secretary Babbitt and Congress agree to break the patent moratorium.

Because of these obstacles, Ford hadn't wanted his memo to become public, but once I ask him about it, his pleasure in the solution he has worked out overwhelms his reservation. He clutters his rapid speech with phrases like "win-win situation" and "innovative alternatives." "This is such a good deal, so positive," he says.

Without it, he says, Summo could sell its New Mexico claims to a larger company — one with money to fight its way through the permitting process. With the proposed deal, the mine threat will never reappear.

But the Mineral Policy Center's Boulanger doesn't think the proposal is "so positive." In fact, Boulanger says it smacks of "a New World Mine deal." To many anti-mining activists, the $65 million deal between the federal government and Crown Butte Mining Company at Yellowstone has reached mythical status; a "New World Mine deal" now symbolizes the power that mining companies hold and the massive amounts of money it takes to compensate them.

"Summo hasn't invested much into that property and (the BLM is) giving them free and clear title to over 1,000 acres of public land," says Boulanger. "In my eyes, it comes pretty close (to a New World Mine deal)."

Ford dreads this response. Unlike the New World Mine swap, he explains, Summo is not asking to be compensated for the value of the minerals in the ground, a figure that would be in the millions. "My fear is that people will take it out of context and call it another deal, another giveaway," he says. "I didn't want someone to say: You're trying to

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Courtesy MPC

"Summo hasn't invested much into that property and (the BLM is) giving them free and clear title to over 1,000 acres of public land."
— Aimee Boulanger, Mineral Policy Center

A mine turns two landowners into activists

LISBON VALLEY, Utah — All Kay Howe and Claudia Akers wanted was to buy some land where it was cheaper than in Moab — on Three Step Mesa in Lisbon Valley, some of San Juan County's rare private land. As the realtor showed them the few acres of sagebrush and unimpressive red canyon, he felt compelled to mention the possibility of an open-pit copper mine just a few miles west.

Before buying, the two women went to Summo's public information meeting in 1995, two of the four citizens attending. "I didn't know anything about acid mine drainage. I didn't know heap leach, sulfuric mine, and nobody knew what to ask," says Akers. "I didn't realize how bad it was. The Summo guys make it seem like a trip to Disneyland."

They bought the land and then reluctantly looked at Summo's draft environmental impact statement. Not understanding the technical jargon, they contacted every environmentalist whose comments were published in the EIS and asked for help.

This was not how they wanted to spend their time. Neither considered herself an activist. Howe is a single mother of four. Akers was Moab's first female jeep tour driver. Both patch together incomes from odd jobs in the tourism and movie industries that feed Moab.

"If you go down the street and ask people, 'Do you know anything about Summo?' everyone says, 'What?' The BLM did nothing," says Howe. "It is up to us to educate people. Like we have the time. Sure, pay me, and I can buy my groceries."

"US 50-YEAR-OLDS ARE TIRED": Kay Howe, left, and Claudia Akers did not want to get into the mine-fighting business (Heather Abel)

Nevertheless, today they speak environmental jargon like lifelong Sierra Club members. Calling themselves the Protect Our Resources Coalition, they have joined the Mineral Policy Center and the National Wildlife Federation in appealing the BLM's decision to allow the mine. But they feel abandoned by Moab's environmental community.

"People here just roll over and take it," says Howe. "We don't need copper to live. We need water to live. This is a desert. Get real, guys."

"Our true feeling is that this company is going to come in, leave us with the mess and get out. There are lots of people who could have stopped it, but were too damned selfish doing their own thing," says Akers. "Us 50-year-olds are tired."

But Akers and Howe are not deterred by the reality of finding themselves fighting a mine.

"We agonized over moving here. Kay said it was the right thing to do. I still don't feel like it was a mistake," says Akers. "Nobody else would have done it and without us, (the mine) would be operating already. Maybe we were meant to come here." — ***H.A.***

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A surprise from New Mexico ...

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sacrifice Utah for New Mexico."

But that, of course, is what people are saying.

It is not clear that the proposed swap influenced the Moab BLM to approve a faulty environmental impact statement for Lisbon Valley. But in a recent letter to the appeals board, the National Wildlife Federation and the Western Mining Action Project say that one thing is certain: Between January and April, Summo's wishes carried a lot of clout with the Utah BLM. "BLM and Summo's clandestine dealings and secrecy concerning the land swap call BLM's objectivity concerning the Lisbon Valley ROD (record of decision) into question," they write. "Approval of the Lisbon Valley project is central to the land swap's success."

In his March 6 letter, Utah deputy BLM director Lopez said the BLM shouldn't permit the mine without at least a $6 million long-term reclamation bond.

On March 9, Summo wrote a letter to Kitchell and the Utah BLM state director: "We think monitoring and bonding for 25 years after mining ends is unnecessary and unreasonable ... Requiring them before we have any indication that they will be needed may well put an end to an otherwise viable project. We think the project has already been seriously damaged by these recommendations in the EIS, and we urge you not to include them."

Two weeks later, just a month after Babbitt announced new and tougher bonding requirements, Utah state BLM Director Bill Lamb approved the mine without any long-term bond for groundwater clean-up.

Ford says that his negotiations with Summo had no bearing on the Lisbon Valley mine's permitting process. Although he met with his Utah counterpart, Moab district manager Kitchell, in January, he says she told him she couldn't comment on the proposal until the BLM made a separate and independent decision on the Lisbon Valley environmental impact statement.

But to Roger Flynn of the Western Mining Action Project, everything is a little too neat. The way Flynn adds it up, Summo has been losing money for three years and needs investors badly. Mineral investors are always skittish, he says, especially of companies that have never mined and that need lots of capital to get into mining. To woo investors, Summo needs speedy permits.

Flynn continues, "(Summo) needs cash; they need Lisbon Valley fast," he says. "We shouldn't be permitting mines to help out financially strapped companies."

Flynn also thinks the Utah BLM had a second motive for permitting Lisbon Valley — a motive that had nothing to do with Ford's New Mexico-Utah solution. He thinks the Utah BLM, fearing cleanup liability in Lisbon Valley, was eager to get rid of that wasteland. He says, "The BLM was given an opportunity to get the heck out of Dodge, and they took it."

TEAM SUMMO: Summo USA officers are, from left, Gregory A. Hahn, Robert A. Prescott, Karen A. Melfi, James D. Frank and Michael A. Charneskie (Courtesy Summo USA)

Making national decisions locally

When Mike Ford told the art gallery crowd, "mining is not the highest and best use of this land," he made a startling statement, for according to the 1872 Mining Law, mining is the highest and best use of BLM land, and the agency has always claimed it doesn't have the power to act otherwise.

Ford's Albuquerque office could find only one example of a BLM district office refusing to allow a hardrock mining company to mine once it had written an EIS, and that was a claim staked in a wilderness study area. Perhaps to avoid getting to the EIS process, Ford stepped out of the normal role of a BLM bureaucrat, which is to play helpful midwife to new mines.

Although he has been with the agency for 23 years, starting after college and leaving only for a brief stint as New Mexico Republican Sen. Pete Domenici's aide on a BLM fellowship, Ford seems more daring than most bureaucrats. He is polished, he smiles and makes eye contact. And he is as determined as any elected official could be to please his Rio Arriba County constituents.

Taking on the role of negotiator may be the only option Ford has to protect this area, since he is working within a power vacuum. Congress remains unwilling to change the 1872 Mining Law, and since January, the BLM has lacked a national director to guide the regional directors.

"Mike is deeply committed as a land resources professional," says Abe Jacobson of the Santa Fe Sierra Club. "But given the political system as it is, Mike can't do a whole lot."

What Ford can do is possible partly because he had the communities on his side. He could not have negotiated with Summo if northern New Mexico had not united against mining on Copper Hill, and if people in southern Utah had not been either courting or ignoring the Lisbon Valley mine.

The problem for those who take a larger view of mining is that local attitudes seem to be the sole factor determining where a mine will go. Mining activists like Jacobson say this kind of policy-making has its shortcomings.

"We need to look at more than these two mines and their NIMBY (Not-In-My-Back-Yard) interests." As a federal agency with broad responsibilities, Jacobson says, "The BLM is a total joke. We have to look with a more national vision of where we allocate mines and where we site them."

Those who want to see the 1872 Mining Law reformed have struggled with the kinds of "suitability standards" that might be incorporated into a revised law. For example, the standards might forbid mining where acid mine drainage could be a problem, or where a local aquifer would be disrupted, or where a mine might mar the view of a well-known scenic area.

Mining companies say such suitability standards would destroy their industry. Geologist and mineral engineer Charles Park explained the industry's attitude in 1971, in John McPhee's *Encounters with the Archdruid*:

"Minerals are where you find them. The quantities are finite. It's criminal to waste minerals when the standard of living of your people depends upon them. A mine cannot move. It is fixed by nature. So it has to take precedence over any other use."

Saying no to self-interest

A few days after Ford's internal memo circulates among New Mexican activists, a strange thing happens. Representatives of the Picuris tribal council, some Dixon locals, and the Sierra Club's Jacobson get on the phone with Utah activist Kay Howe and Aimee Boulanger. Hours later, the New Mexicans agree to go against their apparent self-interest.

They oppose Ford's proposed swap.

"We realized we had a wider environmental responsibility," says Michael Wildgoose of the Taos-Rio Arriba Mining Reform Alliance. It would create a bad precedent to pay Summo to leave Copper Hill and allow it to own land in Utah without BLM oversight, he adds. "Then the floodgates will be open and all the other mining lawyers will get their own companies' exemptions (to the patent moratorium) through acts of Congress."

"Summo had already been almost run out of town. Here we are giving them something on their way out the door," says Ernie Atencio of the Taos-based Amigos Bravos. "We can fight this mine on its own merits. We can fight them off, although that will take a lot longer and be a lot more expensive."

The mine's opponents also tell me that they're not giving up much — that Ford's proposal probably won't make it through the Beltway. Babbitt, they believe, would never willingly break the moratorium. But they are also wistful. Some part of them would like to sign on with Ford and protect the land.

Elizabeth Winter, who has spent the past year sending almost daily e-mail alerts about Summo's threat to Copper Hill, opposes the deal. But she has found a way to feel victorious.

The BLM brokered that deal because of "what we did," says Winter. "Real power doesn't come in lawsuits and deals. It comes from our public groundswell." ■

Heather Abel covers mining issues in the West for *High Country News*.

Genealogy of a mining company

Tracing Summo USA's family tree is not easy. The company is wholly owned by Summo Minerals, a Canadian company. Summo Minerals, however, does nothing but own its American company. In fact, all of its offices, employers and operations are in Denver, Colo. Downstairs from Summo's Denver office is another company, St. Mary Land and Exploration Company. It was a subsidiary of this U.S. company that helped start Canadian Summo Minerals by providing financial backing and selling Summo its claims on Copper Hill.

St. Mary and Summo still have a lot to do with each other. St. Mary's president, Mark Hellerstein, is the chairman of Summo's board of directors, St. Mary recently gave Summo $12.5 million for its Lisbon Valley project, and the two companies recently started a joint company, Lisbon Valley Mining Company, which will be in charge of mining Summo's Lisbon Valley claims.

Anti-mining activists speculate that St. Mary set up a Canadian company to skirt American liability laws in case there are problems with spills or cleanup at a mine. But Summo spokeswoman Karen Melfi says that Summo Minerals is Canadian because mining stocks trade at a higher price in Canada than in the United States.

Summo has yet to mine copper, but it is eager to do so. Copper prices have soared to $1.20/pound, while Summo's production costs will be less than $.60/pound. — *H.A.*

Here are the major players ...

- Summo USA Corp., 900 Denver Center Building, 1776 Lincoln St., Denver, CO 80203 (303/863-1736).
- Taos-Rio Arriba Mining Reform Alliance, P.O. Box 156 Dixon, NM 87527 (505/579-4447).
- The Western Mining Action Project, 1405 Arapahoe Ave., Boulder, CO 80302 (303/473-9613).
- The Mineral Policy Center, P.O. Box 2414, Denver, CO 81302 (970/382-0421).
- BLM's Albuquerque district office, 435 Montano Road, NE, Albuquerque NM 87107 (505/761-8700).
- BLM's Moab district office, 82 E. Dogwood, P.O. Box 970, Moab, UT 84532 (801/259-2100).